**IN THE HIGH COURT OF JUDICATURE OF BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

COMPANY APPLICATION NO.562 OF 2005
IN
COMPANY PETITION NO.854 OF 1988

Jaysynth Dyestuff (India) Ltd. ..Applicant.

V/s.

ICICI Bank Ltd. & Ors. ..Respondents.

Mr.Iqbal Chhagla with Virag Tulzapurkar i/b Hemant Sethi for applicant.

Mr.Pankaj Sawant i/b Shukla & Shukla for Respondent No.2 and 3.

Mrs.K.V.Gautam, Dy. Official Liquidator.

**CORAM: A.M.KHANWILKAR,J**

**DATE : SEPTEMBER 23, 2005.**

**P.C. :**

1. Heard counsel for the parties.

2. This application is necessitated on account of peculiar situation, which would require this court to pass the order of the kind, which is prayed in this application. The matter in issue was considered and finally disposed of under order 13th June, 2005. The argument canvassed on behalf of the respondent No.2 and 3 herein in particular, has been considered in the said order and negatived. The respondent No.2 and 3 were directed to forthwith comply with the

directions given in the said order. Request was made on behalf of the respondent No.2 and 3 to stay the operation of the said order dated 13th June, 2005, which request was however, rejected. With that order, it was expected that respondent No.2 and 3 will discharge the obligations arising from the order dated 13th June, 2005, unless the operation of that order was to be stayed by the Appellate Bench.

3. I am informed that the Respondent No.2 and 3 have carried the matter in appeal, not only against the order dated 13th June, 2005 but also the order dated 17th December, 2004. I am also informed that the appeal has been now circulated for admission on Monday, 26th September, 2005. That however, is besides the point for simple reason that the appeal is said to have been lodged as back as on 6th August, 2005 but no steps have been taken to seek ad-interim order from the Appellate Bench till today. The position was made more than clear to respondent No.2 and 3 on 16th September, 2005, when the present application came up for hearing. Speaking order was passed on that day in the presence of counsel for respondent No.2 and 3. Inspite of that order, the said respondents have not taken steps to seek appropriate direction from the Appellate Bench nor

have complied with the orders passed on the earlier occasions which they were obliged to comply. On the other hand, by sending communication to respondent No.1 the Respondent 2 and 3 have instructed their agent not to part with the documents in question. It is obvious that the attempt of Respondents 2 and 3 is to some how protract the matter.This attitude of the respondent No.2 and 3 is unacceptable. The respondent No.2 and 3 have assumed to themselves that they were not obliged to comply with the order merely by lodging appeal before the Appellate Bench. I find substance in the argument canvassed on behalf of the applicant that conduct of respondent No.2 and 3 is unbecoming of any institution moreso of Union Trust Of India which is State within the meaning of Article 12 of the Constitution of India. In the circumstances, I find no reason to decline the request made before me in terms of prayer clause of (a) and (b) of the application. Hence application is made absolute in terms of prayer clauses (a) and (b) with costs.

5. At this stage, counsel for the respondent No.2 and 3 prays that operation of this order be stayed till Monday i.e. 26th September, 2005. Request made, in my view to say the least is

preposterous, in the fact situation of the present case.